UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.12
19 August 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 12 August 1999, at 10 a.m.

Chairman: Mr. HATANO

CONTENTS

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS:

(a) THE INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS;

(b) THE REALIZATION OF THE RIGHT TO DEVELOPMENT;

(c) THE QUESTION OF TRANSNATIONAL CORPORATIONS;

(d) THE REALIZATION OF THE RIGHT TO EDUCATION, INCLUDING EDUCATION IN HUMAN RIGHTS (continued)

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GE.99-14772 (E)

The meeting was called to order at 10 a.m.

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS:

(a) THE INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS;

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(agenda item 4) (continued) (E/CN.4/Sub.2/1999/10-12, 30 and 33; E/CN.4/Sub.2/1999/NGO/5, 8, 14 and 25; E/CN.4/Sub.2/1998/6; E/CN.4/1999/50)

1. Ms. BIRO (Minority Rights Group) said that the main challenge facing minorities was the subordination of human rights to the imperatives of economic development. An international seminar hosted by her organization in 1995 had concluded that minorities were often excluded from the development process and that development programmes were sometimes even detrimental to their interests. An international workshop on the question, convened by her organization at Katmandu, Nepal, in April 1999, had broadly endorsed that conclusion, finding also that, as conventionally practised, development sometimes violated international human rights standards by disregarding key principles of the Declaration on the Right to Development.

2. Increased competition for scarce economic resources among ethnic, linguistic and socio-economic groups provided an opportunity for power-sharing, equal opportunities policies and affirmative action; instead, however, States' response to such competition often took the form of repression. The continued exclusion of minorities from the benefits of development would result in serious social tensions. Her organization had thus launched a programme to address some of the gaps identified, involving studies at the minority, national and international levels.

3. The Organization for Economic Cooperation and Development (OECD) and the World Bank emphasized development as a partnership involving interdependent macroeconomic, social and human aspects. Her organization thus recommended that the Sub-Commission should support the inclusion of minority rights in the agencies' procedures to assist implementation and monitoring; should encourage development actors to consider the needs and concerns of minority communities; should propose that organizations of the United Nations system ensure that minority communities were able to enter into peaceful dialogue in national and international forums; and should remind those organizations of their obligation to contribute to the full realization of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

4. Ms. PETROULA (International Federation of Human Rights Leagues) said that economic, social and cultural rights had long been accorded lesser importance than civil and political rights as a result, in particular, of the

rise of a neo-liberal free-market economic ideology that minimized the role of the State in securing social justice. The debate on the social clause in the World Trade Organization (WTO) provided an ample illustration of that trend. States had used the pretext of an over-literal interpretation of article 2 of the International Covenant on Economic, Social and Cultural Rights to justify their inaction in that area. The primary responsibility for ensuring the realization of all human rights very definitely lay with States and the findings of the Committee on Economic, Social and Cultural Rights had established that scarcity of resources did not exonerate States from certain minimum obligations. Progressive achievement of the realization of the rights in question must take the form of a steady improvement in their content.

5. The Sub-Commission was the United Nations body best fitted to accord prominence to economic, social and cultural rights. Her organization thus welcomed the setting up of a sessional working group to examine the working methods and activities of transnational corporations. Such corporations had benefited substantially from a new world order in which States had lost much of their decision-making power, particularly in economic matters, and were often powerful in political as well as economic matters. The situation was particularly serious where transnational corporations propped up dictatorships, as in the case of the Total Oil Company in Myanmar. The growing political role of those corporations was of particular significance in that they were almost completely unaccountable for their actions.

6. Her organization, which welcomed the proposal to set up a social forum within the Sub-Commission, urged the Sub-Commission to encourage the Commission to set up other mechanisms to monitor economic, social and cultural rights, such as the right to food and the right to adequate housing.

7. Ms. CUEVAS (Centre of Economic and Social Studies of the Third World) said that, owing to inadequate educational opportunities, the indigenous people of Mexico were unable to take full responsibility for their own affairs. Education was the best means of ensuring the preservation of such people's identity; and the Constitution of Mexico guaranteed all its citizens an intercultural education promoting full respect for ethnic diversity. For most indigenous Mexicans, however, the right was just a remote aspiration. Her organization thus called upon the United Nations to provide financial support for a new indigenous educational initiative, using indigenous knowledge and experience, designed to improve the social situation of the indigenous communities. Such a programme was needed to ensure that indigenous people became participants in, rather than observers of, the benefits of progress.

8. Mr. NAWAZ KHAN (Interfaith International) said that 2 million people in the Gilgit-Baltistan region of Kashmir were denied the right to development by Pakistan, the occupying Power, which was plundering its rich natural and mineral resources. The local inhabitants were deprived of a share in the spoils, and were even excluded from the labour market. As a result of deliberate government policy, the region had neither a university nor any institute of higher education.

9. In neighbouring Azad (Free) Kashmir, economically active young people were emigrating en masse to escape the oppressive influence of Pakistan. In

Indian-occupied Kashmir, too, the people were denied the right to development on the grounds that security was threatened. Kashmiris from both occupied areas needed international support in their struggle for self-determination, which would enable them to exercise the right to development enjoyed by people in the free world.

10. Mr. EIDE, introducing his updated study on the right to food (E/CN.4/Sub.2/1999/12), said that the widespread failure by States and the international community to ensure freedom from hunger and the right to food constituted one of the most serious shortcomings of the human rights agenda. Everyone agreed that freedom from hunger was a fundamental, indeed the most basic, human right. Yet more than 2 billion people the world over suffered from anaemia and iron deficiency, more than 900 million suffered from goitre, 16 million were severely retarded, and another 50 million suffered from other forms of brain damage resulting from iodine deficiency.

11. The good news was that something could be done to rectify that situation. The problem was not insufficient global and national food production, but the lack of access to adequate food by large numbers of people.

12. The Commission on the Nutrition Challenges for the Twenty-first Century of the Administrative Committee on Coordination Subcommittee on Nutrition (ACC/SCN) had highlighted the pernicious impact of malnutrition on the whole life cycle of the human being. Prenatal malnutrition could render human beings susceptible to disease later in life, and jeopardized the future development of both body and brain. Equality for women was not only an important human rights principle, it was also necessary to end the spiral of poverty, lethargy and missed opportunities. Malnutrition was very expensive for society. In that connection, the State had an obligation to respect, protect and facilitate women's right to breastfeed their children, and must put in place the necessary legislative and supportive measures to that end.

13. The right to food was at long last being taken seriously. A major breakthrough in that regard had come at the 1996 World Food Summit. At the instigation of, inter alia, the Sub-Commission, the Heads of State and Government had called upon the High Commissioner for Human Rights to define more precisely the rights relating to food set forth in article 11 of the International Covenant on Economic, Social and Cultural Rights, and propose ways of implementing and realizing them. Recent follow-up activities included the drafting of a code of conduct on the human right to adequate food, endorsed by more than 800 non-governmental organizations (NGOs), and the convening by ACC/SCN, in April 1999, of a symposium on the substance and politics of a human rights approach to food and nutrition policies and programmes. Moreover, the Committee on Economic, Social and Cultural Rights had in May 1999 adopted its General Comment 12, on the right to adequate food - a document of crucial importance.

14. Every country should develop a national strategy to implement the right to food. Two such strategies, prepared by Brazil and South Africa respectively, were considered in his updated report. The first step in national strategies should be to identify those vulnerable to food insecurity and to develop appropriate responses. The Food Insecurity and Vulnerability

Information and Mapping System (FIVIMS), currently being developed by the Food and Agriculture Organization of the United Nations (FAO) and other agencies and national committees, would be an essential tool in that regard.

15. There were three major points that emerged from his updated study. First, there was henceforth a much better and more widely shared understanding of the impact of hunger and malnutrition. Secondly, there was a much broader recognition of the right to be free from hunger and the right to adequate food as human rights. Thirdly, international institutions had broadly endorsed the human rights approach to food and nutrition issues and had pledged themselves to act, separately and collectively, to contribute to the realization of those rights. It remained to be seen, of course, whether States would take all possible steps to put an end to hunger and move towards a full realization of the right to food; and also whether the international community was prepared to shoulder its moral obligations in that regard.

16. He recommended that States should elaborate strategies for everyone within their territories to be free from hunger and to enjoy the right to adequate food; should at all times abstain from using food as a weapon and should ensure that international sanctions did not lead to populations being deprived of food. They should also consider developing further guidelines similar to the Draft International Code of Conduct prepared by the NGOs.

17. The High Commissioner for Human Rights should organize a broad consultation to draw up a coherent United Nations strategy; organize a special consultation involving treaty bodies, specialized agencies, programmes and funds, and humanitarian organizations, together with international financial and trade institutions, to enhance dialogue and encourage consultations on a regular basis and prevent activities which would cause a further deterioration in the enjoyment of the right to food; and initiate activities to clarify the joint and separate responsibilities of States to cooperate in ensuring access to food for all in times of emergency, with special attention to situations of armed conflict. The Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child should explore ways and means of establishing cooperative links among themselves and with the specialized agencies, funds and programmes of the United Nations. NGOs should devote more attention to economic and social rights, including the rights to food and nutrition.

18. Mr. KHALIFA said that a reading of Mr. Oloka-Onyango's working paper on globalization in the context of increased incidence of racism, racial discrimination and xenophobia (E/CN.4/Sub.2/1999/8) had left him somewhat confused about the suggested nexus between globalization and racism: racism had been alive and well before globalization and would, no doubt, survive it, and he wondered whether the exercise of establishing the connection had been a somewhat pointless one. Although multifaceted, globalization had its roots in economics and should be studied in that context and thus, from the Sub-Commission's viewpoint, under agenda item 4.

19. Similarly, Mr. Weissbrodt's paper on the rights of non-citizens (E/CN.4/Sub.2/1999/7) should not have been considered under agenda item 3 since the rights of non-citizens had not necessarily anything to do with race. The issue really belonged to the realm of private international law. However,

unless the topic were to be passed to the International Law Commission, Mr. Weissbrodt should continue his work. Mr. Mehedi's working paper on the content of the right to education (E/CN.4/Sub.2/1999/10) demonstrated an impressive familiarity with the work of the United Nations Educational, Scientific and Cultural Organization (UNESCO) but it would be helpful if future editions placed greater emphasis on human rights education, particularly increasing human rights awareness among young people. As for Mr. Eide's updated study on the right to food (E/CN.4/Sub.2/1999/12), he said that while food was, perhaps, the most basic of human rights, the pivotal issue was really the right to development.

20. In the aftermath of the cold war, the people of the United States felt understandably proud that their way of life had prevailed, but it was overdoing it to think that that way of life had become universally valid and should be adopted by the whole world. Democracy was incompatible with enforced conformity and no one should force nations to conform to a pattern. The attitude involved was not a matter of ideology but rather of economic interest. Few people had anything against the capitalist way of production, the free economy or the free market as such, but only against the capitalist virtue of "incentive" turning into greed and a lust for profit at all costs. Economic aggression, armed with everything that warfare required, was being waged to pressurize others into accepting unfair rules of the game and even to intimidate allies with a view to acquiring a super-bargaining position. Meanwhile, the third world was reduced to being an open market for unhealthy consumerism. The General Agreement on Tariffs and Trade (GATT) had been conceived and imposed to promote the interests of the world's greatest trading powers and to establish the free-trade imperative among economies that were not comparable.

21. It had become fashionable to pursue what was called the "third way", whereby - its advocates claimed - enterprise and justice could live together. The "third way" looked like a far-off dream, however, to the underprivileged countries. In the first place, there was a widening gap between the world's rich and poor countries and, in any country with a free-market economy, the gap between rich and poor was also widening. Economic growth was of little help to the poor in countries where the distribution of wealth was highly unequal. Secondly, successful development needed to be run in an honest and accountable manner, and that was sadly lacking in third-world countries, where the protective power of democracy was not always available to support the burden and cost of viable economic transformation.

22. A free economy was closely linked with political freedom: economists maintained that developing a market culture could take an entire generation, but that was still easier to achieve than democracy, into which people had to grow. It was not simply a matter of providing the wonder drug of multiparty elections to countries with 98 per cent illiteracy and endemic health problems. That was merely a semblance of democracy; elections could easily be sidestepped. In the absence of genuine democracy providing adequate regulation and acting as a corrective, free-market economics bred massive inequality in terms of access to education, health care and employment opportunities. The resultant acute discrepancies in standards of living led to civil unrest and, as often as not, to even less democracy.

23. On top of the irony of capitalism developing the undeveloped, poor countries had not only their debts to cope with but also high levels of expenditure on defence, which could have been directed towards more productive activities. The suppliers of defence equipment were Governments wishing to improve their balance of payments and private companies that cared only for the bottom line. Encouraging the people of developing countries to kill one another was good for business.

24. Broad-based unilateral sanctions on trade and investment had been imposed on some countries such as the Islamic Republic of Iran, the Libyan Arab Jamahiriya, Myanmar and Cuba, but those affected most were ordinary citizens not the leaders of the countries targeted, who managed to blame their own failures on Washington. It would be a moment for great rejoicing in the human rights community if the economic superstars were to fulfil their human responsibility towards the rest of the world.

25. Mr. GUISSÉ said that the economic inequalities between rich and poor countries and the intolerable misery that resulted were the cause of increasingly serious and frequent tension and conflict in the world. The economic domination by certain Powers constituted an obstacle to the establishment of a satisfactory international economic environment, which the international community and individual States had a clear responsibility to create. The richest 20 per cent of the world's population was becoming still richer and the poorest 20 per cent even poorer. Increasing poverty was caused by new production techniques that led to unemployment, worsening conditions of work, lower real wages, reduced social security benefits and more work-related accidents. The situation was particularly dramatic in Africa, where many generations had never enjoyed any material and moral well-being.

26. The conflicts of the past decade had demonstrated the unequal treatment reserved for those of the West and those of the third world. A Kosovar refugee cost $1.23 a day, whereas an African refugee cost $0.11. The United Nations no longer held out any hope for the peoples and countries of the developing world. The use by the United Nations of air strikes and embargoes had revealed the Organization's weaknesses when it came to the peaceful settlement of conflicts. The embargo imposed on the Iraqi people continued to cost thousands of lives, especially amongst children, and it was to be hoped that the sanctions against and bombing of that country and its people would soon come to an end.

27. There was also concern about globalization, which was a method by which a group of individuals and States were managing to capture the world economy. Globalization was bringing more misery and poverty, and the activities of some transnational companies were having negative effects on the economies of developing countries which found themselves obliged to play host to them.

28. Mr. BENGOA said there were two common themes running through the various working papers - namely the interrelationship and interdependence of human rights that had to be unified vis-à-vis an increasingly autonomous market, and the need to adopt specific measures on behalf of economic, cultural and social rights. In connection with Mr. Mehedi's working paper on the content of the right to education (E/CN.4/Sub.2/1999/10), one of the fundamental questions to be answered was how education was to be squared with its need to relate to the

market. In his view, that was a matter of freedom of education, but it should not be forgotten that the distribution of knowledge was even less equal - both nationally and internationally - than the distribution of income. As for Mr. Eide's updated study on the right to food (E/CN.4/Sub.2/1999/12), it was clear that, in the final analysis, it was the market that set the level of nutrition and a population's access to food. All in all, the very important question which needed to be discussed was the point at which a State should intervene to remedy the market.

29. In connection with the proposed social forum, he said that there were a number of points that the Sub-Commission should discuss under agenda item 4. The first was the excellent agenda proposed in Commission resolution 1999/53. There was also the question of who might be invited to take part; there would be the members of the Sub-Commission, of course, government observers, intergovernmental organizations and NGOs, but also, perhaps, international cooperation agencies, financial institutions, transnational corporations and other private international enterprises, and international trade union bodies, all of which would need to have the appropriate status with the United Nations to enable them to address the social forum.

30. As for the duration of the forum, he would suggest three days - scheduled in advance - during the session of the Sub-Commission. It could be presided over either by the Chairman of the Sub-Commission or by someone elected by its members. Its first session could be in 2000, and it might be advisable to request the Office of the High Commissioner for Human Rights (OHCHR) to draw up a report which would include recent documents and studies on economic, social and cultural rights.

31. Ms. PAK Kum-sok (International Association of Democratic Lawyers) said that, as a result of Japan's past colonial policy, many Koreans had been forced to reside in Japan against their will. They had founded over 100 schools throughout Japan in the hope of enabling their children to retain their cultural and ethnic identity. Unfortunately, the Government of Japan had maintained a discriminatory policy against those schools. It limited full financial support to those educated in Japanese schools, thus threatening the right of ethnic minorities to maintain their culture in violation of article 27 (d) of the International Covenant on Civil and Political Rights, and article 2 of the Convention on the Rights of the Child.

32. That situation had drawn criticism from the Committee on the Rights of the Child, which had recommended that the discriminatory treatment of children belonging to minority groups should be fully investigated (CRC/C/15/Add.90), and from the Human Rights Committee, which had expressed concern about instances of discrimination against the Korean minority in Japan, including the non-recognition of Korean schools (CCPR/C/79/Add.102). The fact was that, although a considerable number of private universities and universities run by local self-governing bodies in Japan did not discriminate against Korean and other foreign schools, State universities had initially refused to accept the qualifications of the pupils of those schools to sit entrance examinations and, although that barrier had subsequently been removed, students from foreign schools were still required to take a preliminary test before being allowed to sit the entrance examinations.

33. Furthermore government grants to Korean schools were far lower than those to Japanese schools and that imposed a heavy burden on the parents of Korean pupils, who were sometimes obliged to send their children to Japanese schools for financial reasons. She requested the Sub-Commission to recommend further improvements in the education policy of the Japanese Government as far as racial minorities were concerned, and suggested that a special rapporteur should be appointed to conduct an immediate investigation into the situation she had described.

34. Mrs. SRIVASTAVA (International Institute for Non-Aligned Studies) said that the right to development presupposed equal opportunities to participate in political, social, economic and cultural life and, particularly in multi-religious and multi-ethnic societies, it necessitated institutional safeguards against discrimination. Development had perforce to be tailored to the particular characteristics of each society, and ancient societies needed longer to adapt to the demands of the development process. There was an unfortunate tendency to link development assistance to ideological requirements. Although changes in behavioural patterns were necessary to sustain development, it had to be an evolutionary process, not a coercive one.

35. Regional cooperation was perhaps the best path to sustained development because it was facilitated by affinities of culture. Many newly independent nations looked beyond tangible development to development of the spirit, and it was not surprising that they often opted for a pluralistic democracy. Unfortunately, democracy was threatened by war and terrorism fed by bigotry, as the examples of Afghanistan, Yugoslavia, and Jammu and Kashmir demonstrated. If development were to be sustained, democracy had to be protected, and the international community must adopt a global plan to ensure that progress was not disrupted by the excesses of fundamentalism and terrorism.

36. Mr. KOHLI (Indian Council of Education) said that the record of expanding educational opportunities in the twentieth century was a source of both pride and shame. In spite of a fourfold increase in enrolments in primary and secondary schools over the last 40 years, there were still 885 million adult illiterates, 130 million children had no access to primary education and another 100 million did not complete even the first four years of schooling. Moreover, the gender gap, although narrowing, was still shockingly wide although women's literacy was the key to the better health, nutrition and education of the family.

37. Bridging the alarming gap between the developed and developing world was another basic challenge to education in the twenty-first century. To meet that challenge, the United Nations should, through its agencies, launch a technical mission to take advantage of the momentous scientific and pedagogic changes, to facilitate the acquisition of literacy and to provide incentives to educational institutions to eradicate illiteracy through area-specific and population-specific strategies.

38. Not only must elementary education be free and compulsory, it should also be directed to the full development of the human personality and the strengthening of respect for human rights. A particular cause of concern was that very few States in the South Asia region had adopted national plans in

conformity with the Plan of Action for the United Nations Decade for Human Rights Education, and that no formal regional mechanism had been set up to address human rights issues.

39. Mr. BILGRAMI (Afro-Asian People's Solidarity Organization) said that, while civil and political rights were more readily measurable than social and cultural rights, it had been universally recognized that poverty could lead to social unrest and eventually to a humanitarian crisis. Economic and social development and the achievement of civil and political rights must thus be seen as two aspects of an indivisible process. That interdependence had been confirmed in the Vienna Declaration and Programme of Action. The guarantee of human rights was only possible in the context of sustainable development, which was non-exploitative of both people and the environment.

40. Distributive justice was, in particular, denied to women, children and economically disadvantaged and marginalized sections of communities, which together constituted a majority of the world's population. It was one of the paradoxes of the contemporary world that, while electronic superhighways were being constructed, people in undeveloped countries, particularly women, had to travel long distances to seek water, fodder for their animals and fuel to cook their food. It was only natural, therefore, that developing societies should be more concerned about development than about the acquisition and protection of human rights.

41. As far as action by the international community was concerned, he suggested that the least developed countries (LDCs) be given priority in the realization of the right to development; that the ratification of human rights conventions, particularly those relating to social and economic rights, should be accelerated; that the contradiction between the slowness of that process and the promptness with which economic and military sanctions were imposed against violations of human rights should be resolved; that the possibility should always be considered that violations of human rights in developing countries might be a result of underdevelopment rather than discriminatory practices; that inconsistencies in the application of such sanctions weakened the credibility of the promotion and protection of human rights; and that selective morality threatened the integrity of human rights.

42. Mr. PARK Sang-yong said he welcomed the growing recognition of the importance of the right to development, which was reflected in a number of resolutions adopted by United Nations bodies. In its resolution 53/155, the General Assembly had expressed concern that the unacceptable situation of absolute poverty, hunger, disease, lack of adequate shelter, illiteracy and hopelessness had remained the lot of more than 1 billion people, and that more than 10 years after the adoption of the Declaration on the Right to Development obstacles to the realization of that right still persisted at both the national and international levels. It had also welcomed the establishment of an open-ended working group of the Commission on Human Rights, and the appointment of an independent expert, and had pointed out that the fiftieth anniversary of the Universal Declaration of Human Rights was an appropriate occasion to place the right to development at the top of the global agenda.

43. The Commission had, in its resolution 1999/79, reiterated that concern with particular reference to the gap between developed and developing countries, which the World Bank had recently reported as having widened, in terms of difference of income between the top and bottom 20 per cent of the world's population, from 60 to 1 in 1993 to 74 to 1 in 1998. Likewise, the Nobel Economics Laureate, Mr. Amartya Sen, and the President of the World Bank had pointed out in a joint article that 1 billion people were living on less than two dollars a day, 1.3 billion did not have clean water, that 40,000 children died every day because of hunger and related diseases, and that 130 million children did not go to school. It had also been estimated that the assets of the three richest families in the world exceeded the combined gross national product (GNP) of the 43 least developed countries. Admirable studies had been carried out by Mr. Eide on the right to food and Mr. Salazar on the right to drinking water and sanitation and by Mr. Bengoa on income distribution and human rights.

44. One of the burdens hampering human development was indebtedness, which was diverting resources that were needed to alleviate poverty and improve health, education and nutrition. A recent suggestion for enhancing debt relief had been made by OXFAM International: that relief might be linked to a promise from the country concerned that the proceeds would be used to meet essential development needs. The importance of debt relief had also been recognized in the Commission's resolution 1999/22.

45. So grave was the growth of poverty in East Asia, that the Asian Development Bank was shifting its emphasis from economic growth to poverty reduction. Over the past 15 years, per capita income had declined in more than 100 countries, and official development assistance (ODA) was stagnating at its lowest level for more than 50 years. An independent expert had pointed out in his report (A/CN.4/1999/48) to the Commission that the lack of political will rather than of financial resources was the real obstacle to the eradication of poverty and, in its resolution 1999/26, the Commission had requested the High Commissioner for Human Rights to consider the feasibility of holding a workshop with a view to a possible draft declaration on human rights and extreme poverty. In his own view, the elaboration of a convention on the right to development, which the General Assembly in its resolution 53/155 had requested the Commission to consider, would greatly contribute to the alleviation of that problem, and he thought that the Sub-Commission might well initiate the drafting of such a convention at an early date.

46. Ms. HAMPSON said that the implication that the economic forces sweeping the world were as untamable as the winds and the waves was patently absurd. They were free to sweep the world only because of the lack of regulation. States that claimed the prerogatives of sovereign independence had corresponding responsibilities. Home States had to ensure that individuals and companies based in their jurisdiction did not cause harm to persons in other jurisdictions and to other States. Host States had to control the activities of both national and foreign companies and individuals in their own jurisdiction. The tendency in the human rights enforcement bodies to hold States responsible for securing the protection of human rights and not just for their own violations was one that should be encouraged.

47. Turning to the relationship between the problems posed by structural adjustment policies for human rights and the activities of transnational corporations, she said that Mr. Fantu Cheru, independent expert of the Commission on Human Rights on structural adjustment policies, had noted in his report to the Commission at its fifty-fifth session (E/CN.4/1999/50) that the role of the State had been significantly curtailed by the end of the second decade of adjustment; market forces were in control and African economies were wide open to external penetration. Structural adjustment policies had apparently not even achieved their economic goals; their effects included increased unemployment, a dramatic rise in the poverty rate, a fall in real wages, a decline in budgetary allocations to social services, a widening in income disparities and the undermining of local productive capacities. Whenever a State failed to honour its obligations under a human rights instrument because of the exigencies of intergovernmental organizations such as the International Monetary Fund (IMF) and the World Bank, the responsible treaty body should identify the culprit.

48. A category of transnational corporation omitted from the report of the sessional working group (E/CN.4/Sub.2/1999/9) was that of companies purporting to provide security services. She suggested that the acts of members of such companies should be imputable to their own home State and the home State of the company, save where the host State had assumed such responsibility under a bilateral agreement with the home State.

49. In the argument regarding economic rights, there was a danger of losing sight of what was at stake. Poverty led to crime and general unrest and often to open conflict, destroying not only lives and security but also such economic progress as had occurred. The Sub-Commission had been told to focus on the prevention of human rights violations. Understanding prevention meant understanding both cause and effect.

50. For example, certain Caribbean island States were being deprived of privileged access to European Union markets because their bananas cost more than those produced by United States industrial producers in Central America. If the islanders were unable to export bananas, they would have no option but to become involved in the narcotics trade. The United States would then have to pay more for coastguards, drug enforcement agency officials and policing, and the long-term costs (irrespective of the impact on the communities of the small islands in question) would exceed the contributions of the banana corporations to politicians and political parties. When a panel decided a dispute solely in terms of economic rules and in total disregard of the long-term economic and human costs of its decisions, she wondered whether such bodies lived on the same planet as the Secretary-General and the Sub-Commission.

51. Mr. SIK YUEN said that the members of the Sub-Commission had been unable to do justice to the studies prepared by their colleagues because of the need to digest masses of written material within a very short time. Such thought-provoking studies should be made available well in advance of the session so that the ensuing discussion could be more productive. He had listened with great interest to Mr. Khalifa who had left his listeners in no doubt about the intolerable discrepancy between nations in terms of their wealth. Ms. Hampson had eloquently depicted the plight of small island

nations dependent on banana cultivation that were to be deprived of their livelihood. Mr. Eide had produced an excellent report on the right to food and Mr. Oloka-Onyango's linkage between globalization and colonialism had provided food for thought. He complimented Mr. Mehedi on his working paper on the right to education and shared Mr. Bossuyt's view that there was a clear-cut distinction, in the context of affirmative action, between discrimination and differentiation. Lastly, he wished Mr. Bengoa every success in his preparatory work on the proposed social forum.

52. Mr. WEISSBRODT, commenting on Mr. Mehedi's working paper on the content of the right to education (E/CN.4/Sub.2/1999/10), cautioned against any overlapping with the mandate of the Commission's Special Rapporteur on education. Mr. Mehedi had referred to the General Comment on the right to education recently adopted by the Committee on Economic, Social and Cultural Rights. The Secretary-General's note (E/CN.4/Sub.2/1999/23) contained a reference to the debate and background papers associated with that General Comment.

53. The references in paragraph 18 of Mr. Mehedi's paper to two categories of educational philosophy were unnecessary. Moreover, specialists in the philosophy of Immanuel Kant would probably disagree with his interpretation of that philosopher's views.

54. The paper would benefit from a discussion of the obstacles to realization of the right to education, including those faced by women and girls. Examples of such obstacles were lack of access to technology, safety concerns in attending local schools, the phenomenon of street children, and schooling in times of armed conflict or in refugee camps or other displaced communities. The indicators on page 19 should include a reference to the obstacles. Some possible indicators of a community's openness to education were whether dissident views were permitted in the education system, whether teachers had been dismissed for unpopular beliefs, and whether demonstrations, newspapers and other evidence of free expression were permitted.

55. The reference to judicial decisions by the French and Spanish Courts (paras. 68-70) would, of course, benefit from a discussion of practice in other States.

56. He congratulated Mr. Oloka-Onyango and Ms. Udagama on their ground-breaking working paper on human rights as the primary objective of international trade, investment and finance policy and practice (E/CN.4/Sub.2/1999/11). Some portions of the paper were of relevance to the proceedings of the sessional working group on transnational corporations and the two projects should be closely coordinated.

57. He supported the idea of involving the human rights community in suggesting frameworks for the negotiation of multilateral investment instruments and the proposal to focus on balance and mutuality of benefit. The success of such ideas would depend on creating a dialogue between the human rights community and the international investment community. Some international investment institutions had recently begun to acknowledge human rights concerns; others had either remained silent or said one thing and done another. He supported the idea of identifying and engaging each constituency.

58. Turning to the report of the sessional working group on the working methods and activities of transnational corporations (E/CN.4/Sub.2/1999/9), he urged the working group to make full use of the limited time remaining of its three-year mandate to formulate concrete and meaningful conclusions and recommendations. Transnational corporations were rapidly expanding and increasing their power. There were credible reports that factory workers employed by such corporations were often paid less than the cost of three basic meals. The work of the sessional working group should be widely publicized and as many interested parties as possible encouraged to participate.

59. Mr. Eide had made a major contribution over the past decade to the debate on the right to food. The new developments summarized in his updated study on the subject (E/CN.4/Sub.2/1999/12), including the General Comment of the Committee on Economic, Social and Cultural Rights, were extremely important. Any future work in that area should address such issues as: States' obligations to ensure access to food for displaced persons and in times of emergency and armed conflict; freedom of choice and religious preferences in respect of food; right-to-food obligations of States that had not ratified the International Covenant on Economic, Social and Cultural Rights; and the obligations of non-State actors, particularly transnational corporations and opposition political groups. The right to food should not be held hostage to other business or political objectives. Some measurable indicators in that regard would be welcome.

60. Mr. PUNJABI (Himalayan Research and Cultural Foundation) said that the United Nations Institute for Disarmament Research (UNIDIR) had formulated the doctrine of "security for development" or "security first" in connection with the right to development. The question was whether any kind of development - economic, educational or social - could take place in a society that had been thrown into turmoil by violence. Many developing countries that were grappling with hunger, poverty and illiteracy were simultaneously embroiled in perpetual conflict.

61. In some cases, conflicts were deliberately fomented to block or reverse economic or social development. A recent example was the incursion by armed militants from Pakistan into Kargil in the Indian State of Jammu and Kashmir. The attack by so-called mujahidin had set the area back five decades in economic terms. All schools and hospitals and the economic infrastructure had been destroyed. About 30,000 people, mainly Shiite Muslims, had been displaced and prevented from carrying out seasonal agricultural work.

62. Where peace was under threat, the rights to food, shelter, education and development could not be enjoyed. The establishment of clusters of rights under international legal instruments was all very fine but they contributed little in practical terms towards attaining the objectives of the United Nations Decade for the Elimination of Poverty. The Sub-Commission, in cooperation with donor agencies, should identify countries that sponsored and supported violence and should censure them.

63. Ms. KHOURY (World Federation of Trade Unions) said that sustained social, political and economic development could take place only in an environment of peace and freedom. Countries with tremendous potential were

being thwarted in their quest for a better life by factors outside their control such as the violence born of obscurantism. For example, the structures for all-round development in the State of Jammu and Kashmir were constantly being jeopardized by terrorism and war emanating from Pakistan. Pakistan's denials of active support for the terrorist groups were negated by the evidence. The Pakistani and international media had given extensive coverage to the arming, funding and training of such groups for a jihad against India. Pakistan had recently tried to lure India into a war that would have destroyed the Indian polity and economy. The prosperous State of Punjab had also been targeted by terrorist groups from Pakistan for over a decade.

64. The developing countries were being forced to divert scarce resources from the development process to the realm of security. If the international community was serious about promoting the right to development, it must neutralize the threat posed by unbridled terrorism, starting with a condemnation of Pakistan for its support for terrorism and military adventurism.

65. Mrs. WARZAZI said she failed to see the relevance of the previous statement to the agenda item under consideration. Terrorism was to be discussed under item 12 of the Sub-Commission's agenda.

66. The CHAIRMAN appealed to all NGOs and observers to confine themselves to the subject under discussion. If they failed to do so, their speaking time might have to be reduced.

The meeting rose at 1.05 p.m.